

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:08CR53
(Judge Keeley)

GALE A. KING,
CARL EDWARD DODSON,
JODI DARLENE DODSON,
DEBORAH CAMPBELL,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On August 22, 2008, Defendant Carl Edward Dodson filed his Motion to Dismiss Count One of the Indictment Due to Duplicity (dkt. no. 42). On September 10, 2008, Defendant Gale A. King also filed a motion to dismiss count one due to duplicity (dkt. no. 59). Then, on September 10, 2008, Defendant Jodi Darlene Dodson filed her motion to join in the pre-trial motions filed by co-defendants (dkt. no. 64).¹

The Court referred this matter to United States Magistrate Judge John S. Kaull for initial screening and a report and recommendation, which he issued on September 11, 2008 (dkt. no. 70). In his Report and Recommendation, Judge Kaull recommended that the defendants' motions to dismiss count one of the Indictment be denied because count one charges them with "a single conspiracy to commit two or more separate crimes" which is one crime of

¹ Magistrate Judge Kaull granted Defendant Jodi Darlene Dodson's motion in his Order/Report and Recommendation/Opinion dated September 11, 2008 (dkt. no. 70).

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conspiracy, and, therefore, is not duplicitous. See Braverman v. United States, 317 U.S. 49, 54 (1942).

The Report and Recommendation also specifically warned that failure to object to the recommendation would result in the waiver of appellate rights on this issue. Nevertheless, none of the defendants has filed any objections.² The government stated in its response dated September 19, 2008 (dkt. no. 72) that it had no objection.

The Court **ADOPTS** the Report and Recommendation and **DENIES** the defendants' motions to dismiss count one of the Indictment.

It is so **ORDERED**.

The Clerk is directed to mail a copy of this Order to the plaintiff.

Dated: October 7, 2008.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

² The defendants' failure to object to the Report and Recommendation not only waives their appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issue presented. *See Thomas v. Arn*, 474 U.S. 140, 148-153 (1985); *Wells v. Shriners Hosp.*, 109 F.3d 198, 199-200 (4th Cir. 1997).